



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNSD, MNDC, FF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for a monetary order for a return of her security deposit, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee paid for this application.

The tenant, the landlords, the landlords' legal counsel and the respective witnesses attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond to the other's evidence and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to a return of her security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

Background and Evidence

Although the landlord stated that there was a written tenancy agreement, one was not provided into evidence.

The tenant submitted that she moved into the rental unit on August 1, 2013 and vacated the rental unit on June 18, 2014. The landlords submitted that the tenant moved into the rental unit on July 12, 2013, and they knew for sure the tenant had vacated the rental unit on June 23, 2014.

Both parties agreed the monthly rent was \$600 and the tenant paid a security deposit of \$600. The parties also agreed that the landlord has not returned the tenant's security deposit or filed an application claiming against the security deposit.

The parties agreed there was no move-in or move-out condition inspection report.

The tenant's monetary claim is as follows:

9 months' rent	\$5600
Security deposit	\$600
38 containers, water	\$216
38 weeks' of laundry	\$456

Tenant's evidence-

In support of her monetary claim for reimbursement of 9 months' rent, the tenant submitted that from the beginning of the tenancy, the water in the rental unit has not been suitable for drinking or generally for using. The tenant submitted further that she had to buy drinking water and launder her clothes at another person's home.

Despite asking the landlords to address the matter of the non-potable water, the landlords said they had obtained, but did not provide, a water quality assessment report.

The tenant also identified a wood stove as being a fire hazard, despite having a friend clean out the stove. The tenant submitted further that there was a leak in the rental unit all winter, and that in March 2014, a flood occurred, causing sewer issues.

The tenant submitted further that there were electrical outlet issues and other repair and safety issues the landlords failed to address, during the tenancy. The tenant submitted

the condition of the rental unit caused her to store her personal property and caused her to have health issues, such as infections.

The tenant submitted further that she had rodent infestations, which the landlord failed to address.

The tenant submitted that the landlords have failed to address any of her requests for repair or maintenance throughout the tenancy, leading to her claim for complete reimbursement of her rent for 9 months due to the loss of use.

As the matter of her security deposit, the tenant submitted that the landlords have illegally overcharged as to the amount, requiring the full amount of monthly rent.

The tenant submitted that she provided her written forwarding address to the landlords in a letter sent regular mail, approximately June 25, 2014.

The tenant's relevant documentary evidence included, but was not limited to, digital evidence in the form of a CD, a written summary of her case, a witness statement, banking information showing payments made for the rental unit as claimed by the tenant, and a report from the building/fire inspector.

Landlords' response and evidence-

The landlord submitted that any complaint made by the tenant was dealt with promptly; further the water complained of by the tenant was municipal water, and a water quality analysis commissioned by the landlords showed no health risk according to Health Canada. The landlords submitted a copy of the report, which also stated the municipal water quality was not the responsibility of the landlords.

The landlords submitted further that the tenant had a friend work on the water lines without permission, which lead to any issues with the water pipes.

The landlord submitted further that the wood burning stove was inspected and was approved.

The landlords submitted further that the rental unit had been rented since 2008, without any issues by any other tenant.

The landlords denied a mice problem, as the nature of a cold climate and lack of housekeeping standards are contributing factors.

The landlords submitted that the tenant left owing 2 months' rent and questioned why the tenant should be entitled to any compensation for rent reimbursement.

As to the tenant's security deposit, the landlord confirmed receiving the tenant's written forwarding address, as stated by the tenant. The landlords said they did not return the security deposit as the tenant owed rent and other costs at the end of the tenancy.

The landlords' additional relevant documentary evidence included, but was not limited to, witness statements, photographs of the rental unit, written summaries, an email response from the municipality's building inspector, and a copy of the permit application for the wood burning stove.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that occurs as a result of their actions or neglect, so long as the applicant verifies the loss, as required under section 67. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss.

9 months' rent reimbursement-

Section 32 of the *Act* provides that a landlord must provide and maintain a residential property in a state of decoration and repair that complies with health, safety and housing standards required by law and is suitable for occupation by a tenant when considering the age, character and location of the rental unit.

Where a tenant requests repairs, the landlord must be afforded a reasonable amount of time to take sufficient action.

In the case before me, I find the tenant submitted insufficient evidence to support her claim for any reimbursement of rent. In making this finding, I relied upon the lack of proof of written complaints from the tenant to the landlords, and was unconvinced the tenant had made such requests.

I would expect the tenant, if any verbal requests had been ignored, would put her concerns or requests to the landlord in writing, with proof that the landlords had been given the requests, in order to put the landlords on notice.

I also was unconvinced that the tenant's medical condition was the result of the state of the rental unit, due to having no doctor's report confirming this allegation.

I also relied upon the landlords' evidence showing that the water quality met health and safety standards.

Additionally, if the rental unit was unlivable, as claimed by the tenant, the tenant was obligated to minimize her loss; instead, the tenant stayed throughout her claimed problems with the tenancy and then sought compensation, rather than leave much earlier to minimize her loss.

Due to the above, I therefore find that the tenant has submitted insufficient evidence to show that the landlords violated the Act or that she suffered a loss of use of the rental unit, or that she took reasonable steps to minimize her loss and dismiss her claim for \$5600 for reimbursement of total rent for 9 months.

Water and laundry costs-

As I have dismissed the tenant's monetary claim due to insufficient evidence and the evidence of the landlords showing the water quality, I likewise dismiss the tenant's claim for water and laundry costs.

Security deposit-

The tenant correctly cited that the landlords had overcharged a security deposit, as section 19 of the Act limits the amount allowed to be collected by the landlords, or up to $\frac{1}{2}$ of the monthly rent payable under the tenancy agreement.

Under section 38(1) of the Act, at the end of a tenancy a landlord is required to either return a tenant's security deposit or to file an application for dispute resolution to retain the deposit within 15 days of the later of receiving the tenant's forwarding address in writing. Section 38(6) of the Act states that if a landlord fails to comply, or follow the requirements of section 38(1), then the landlord must pay the tenant double the amount of their security deposit.

The undisputed evidence shows that the tenancy ended on, or the landlords became aware of the tenancy ending by June 23, 2014, the landlord received the tenant's forwarding address in a letter written by the tenant, dated June 25, 2015, and that the

landlords have neither filed an application to retain the tenant's security deposit nor returned the deposit in full.

I therefore grant the tenant's application for a return of her security deposit of \$600 and I must order that the landlord pay the tenant double her security deposit, in the amount of \$600.

Pursuant to section 72(1) of the Act, I also order that the landlord pay the tenant part of her filing fee for this application, in the amount of \$50.

Due to the above, I find the tenant is entitled to a total monetary award of \$1250, comprised of her security deposit of \$600, doubled to \$1200, and \$50 for recovery of her filing fee paid for this application.

Conclusion

The tenant's application was partially successful, as I have dismissed part of her claim and granted her a monetary award of \$1250.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 2, 2015

Residential Tenancy Branch

